

HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b))

Description of the case.

WPMS No. 1551/05

Dawa Udyog Kamgar Union

Vs

State of Uttaranchal.

through its Secretary.

Approved for reporting.

Not approved for reporting

Date of decision 10.4.2006

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT
NAINITAL
WRIT PETITION NO. 1551 (MS) OF 2005

Dawa Udyog Kamgar Union,
Haridwar having its Office at 951/H/1, BHEL,
Ranipur, Haridwar,
Through its Joint Secretary Sri Mahendra Prasad Jakhmola.
.....Petitioner.

Versus

1. State of Uttaranchal, through its Secretary, Ministry of Labour, Civil Secretariat, Dehradun.
2. District Magistrate, Haridwar.
3. Conciliation Officer/Assistant Labour Commissioner, Haridwar.
4. M/s Divya Pharmacy, Divya Yog Mandir Trust, Kankhal, Haridwar, through its Manager. Respondents.

Dated: 10.4.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Pankaj Miglani, Advocate for the petitioner and Standing Counsel for the respondents no. 1 to 3.

By the present writ petition, the petitioner has prayed for a writ of Mandamus directing the respondent no.1 to enforce the settlement dated 21.05.2005 (Annexure No. 3 to the present writ petition).

Briefly stated, according to the petitioner, he is a registered trade union having its Registration No. 8655 of 1998-99. On 02.05.2005, the petitioner made an application to respondent no. 1 stating therein his grievances with regard

to its members that the employees/workmen of the respondent no. 4 are facing certain problems at the hands of their employer i.e. respondent no. 4 as they are not being paid minimum wages despite the fact that respondent no. 4 falls within the definition of Industry and is governed by the Factories Act. The copy of the aforesaid application was also served upon the respondent no. 3, who after the receipt of the application, issued notice dated 07.05.2005 to respondent no. 4 to remain present in his office on 13.05.2005 at 11:30 am for the conciliation proceedings with regard to the Industrial Disputes raised by the petitioner.

The conciliation proceedings came to an end on 21.05.2005 with the settlement that the employees/workmen of respondent no. 4 would be paid the payment of April, 2005.

Petitioner has submitted that it was further agreed between both the parties i.e. the petitioner as well as respondent no. 4 that the status of 05.50.2005 will be resumed in the establishment and that the employees of respondent no. 4 will end their agitation and will maintain the discipline in the establishment of respondent no. 4. Respondent no. 4 had further assured that no action will be taken against any employee with the intention of vengeance. The settlement arrived between the parties was in Form I as is prescribed under the U.P. Industrial Disputes Rules and was signed by respondent no.3.

Petitioner has submitted that despite of various reminders and representations given to respondents no. 1 to 3, the aforesaid settlement has not been enforced or implemented till date.

On 31.05.2005, a letter was issued by the Special Work Officer of the Chief Minister of Uttaranchal to respondent no. 4 to enforce the agreement dated 21.05.2005, copies whereof

were forwarded to respondents no. 2 and 3 for necessary action but till now no action has been taken upon by any of the respondents.

Vide letter-dated 30.07.2005, respondent no. 1 issued a letter to respondent no. 2 to ensure the implementation & enforcement of the agreement dated 21.05.2005 but after passage of almost five months, no action has yet been taken.

Rule 5 of the U.P. Industrial Disputes Rules, 1947 is quoted below:-

“[5. Memorandum of Settlement.-(1) A settlement arrived at before a Conciliation Officer or otherwise outside the conciliation proceedings shall be in Form I.

(2) The settlement shall be signed—

- (a) in the case of an employer, by the employer himself or by his authorized agent or when the employer is an incorporated company or other body corporate, by the agent, manager, or other principal officer of the corporation; and*
- (b) in the case of a workman, either by the workman himself or by the President or the Secretary of the Union of Workmen, competent to represent the workman under Section 6-I, or of a Federation of such Unions, or by an officer of such Union or Federation authorized in this behalf by the President of such Union or Federation, or where there is no such Union, by five representatives of the workmen duly authorized in this behalf at a meeting of the workmen held for the purpose.*

- (3) *Where a settlement is arrived at before a Conciliation Officer otherwise than in the course of conciliation proceedings before a Board, the Conciliation officer shall send a report thereof to the Government with the copy to the Labour Commissioner, Uttar Pradesh.*
- (4) *The State Government shall, subject to the provisions of clause (ii) of Section 7, issue orders in Form III-A, for enforcing any settlement arrived at before a Conciliation Officer in the course of conciliation proceedings.]”*

In view of the above, respondents no. 1 to 3 are directed to decide the representation (Annexure No. 4 to the writ petition) of the petitioner within a period of two months from the date of production of the certified copy of the order.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

10.04.2006
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